

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

DEPT OF TRANSPORTATION
DOCKETS

In the Matter of:

**Abaco Moving & Storage Corp.
dba Lonestar Relocation Services,**

Respondent.

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)
) **Docket No. FMCSA-2009-0182**
) **CA-2009-0482-US1164**
) **(Western Service Center)**
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**FIELD ADMINISTRATOR'S NOTICE OF OBJECTION TO RESPONDENT'S
REQUEST FOR FORMAL HEARING**

COMES NOW, the Field Administrator for the U.S. Department of Transportation, Federal Motor Carrier Safety Administration ("FMCSA"), Western Service Center by and through the undersigned, and hereby objects to Respondent's request for formal hearing. In support thereof, the Field Administrator states as follows:

I. Procedural History

1. The above-captioned civil penalty proceeding was commenced through the issuance of a Notice of Claim pursuant to 49 C.F.R. Part 386 which included a Statement of Charges detailing the violations of Federal statutes and regulations, including the Federal Motor Carrier Commercial Regulations (FMCCRs) discovered during a compliance review completed on or about April 1, 2009. The Notice of Claim charged Abaco Moving & Storage Corp dba Lonestar Relocation Services ("Abaco." or "Respondent") with one violation of 49 C.F.R. §§ 391.45(a) / 391.11(a), using a driver

not medically examined and certified; and two violations of 49 C.F.R. § 395.8(a), failing to require driver to make a record of duty status. The Notice of Claim asserts a total civil penalty of \$2,000 for the charged violations. A copy of the Notice of Claim served April 17, 2009 is attached hereto and identified as Attachment A.

2. On May 8, 2009 Respondent's representative served his Notice of Representation and request for copies of evidence. A copy of the Notice of Representation is attached hereto and identified as Attachment B. A copy of the request for copies of evidence is attached hereto and identified as Attachment C. The office of the Field Administrator served copies of evidence collected during the investigation on May 18, 2009. A copy of the Field Administrator's correspondence transmitting copies of evidence collected during the investigation, without attachments and enclosures, is attached hereto and identified as Attachment D.

3. Respondent, through its consultant representative, timely served its reply to the Notice of Claim. In its reply Respondent denies the charged violations and requests administrative adjudication in the form of a formal hearing. A copy of the reply is attached hereto and identified as Attachment E.

II. Objection with Basis

4. The Rules of Practice limit the opportunity for a hearing by requiring, at 49 C.F.R. § 386.16(b), the Assistant Administrator determine whether there exists any material fact in dispute before setting a case for hearing.

5. Violation of 49 C.F.R. §§ 391.45(a) / 391.11(a) – Using a driver not medically examined and certified.

In its reply, Respondent denies the charged violation claiming “Respondent did not commit the violation: On or about 02/14/2009, driver Baruch Edry, did not drive a commercial vehicle in furtherance of interstate commerce therefore he was not subject to the Federal Motor Carrier Safety Regulation and committed no violation.” Respondent does not support its contention that the driver did not operate a commercial motor vehicle in furtherance of interstate commerce.

Pursuant to 49 C.F.R. §§ 391.45(a) and 391.11(a), a driver must be medically examined prior to operating a commercial motor vehicle. A driver is prohibited from operating a commercial motor vehicle, and a motor carrier is prohibited from using a driver to operate a commercial motor vehicle, unless the driver is qualified to operate the commercial motor vehicle. The Field Administrator’s evidence establishing a *prima facie* for the charged violation includes documentation establishing the interstate transportation of household goods for individual shipper Hall. The evidence further includes copies of the revised estimate dated 2/14/09 signed by Baruch Edry for Respondent, a copy of the order for service for shipper Hall dated 2/14/09 showing Baruch Edry’s signature for the carrier; copy of the Bill of Lading signed by Baruch Edry for the carrier and a copy of the inventory list for the transportation showing Baruch Edry’s signature. Additionally, during the compliance review Baruch Edry, President, admitted to the investigator that on February 14, 2009 he drove a commercial motor vehicle to pick up household goods for Respondent’s transportation of shipper Hall’s

household goods from California to Parker. Further Mr. Edry admitted that he was not medically examined and certified.

6. **Violations of 49 C.F.R. § 395.8(a) – Failing to require driver to make a record of duty status.**

Charge 1

In its reply, Respondent denies the charged violation claiming “Respondent did not commit the violation: On or about 02/14/2009, driver Baruch Edry, did not drive a commercial vehicle in furtherance of interstate commerce therefore he was not subject to the Federal Motor Carrier Safety Regulation and committed no violation.” Respondent does not support its contention that the driver did not operate a commercial motor vehicle in furtherance of interstate commerce.

Pursuant to 49 C.F.R. § 395.8(a), every motor carrier shall require every driver to prepare a record of duty status as prescribed by the regulations; the driver must submit, and the motor carrier must maintain, the record of duty status as required. The Field Administrator’s evidence establishing a *prima facie* for the charged violation includes documentation establishing the interstate transportation of household goods for individual shipper Hall. The evidence further includes copies of the revised estimate dated 2/14/09 signed by Baruch Edry for Respondent, a copy of the order for service for shipper Hall dated 2/14/09 showing Baruch Edry’s signature for the carrier; copy of the Bill of Lading signed by Baruch Edry for the carrier and a copy of the inventory list for the transportation showing Baruch Edry’s signature. Additionally, during the compliance review Baruch Edry, President, admitted to the investigator that on February 14, 2009 he drove a

commercial motor vehicle to pick up household goods for Respondent's transportation of shipper Hall's household goods from California to Colorado. During the compliance review the investigator requested copies of driver Edry's record of duty status for February 14, 2009, Respondent was not able to produce the record of duty status and Mr. Edry told the investigator that Respondent's drivers did not make records of duty status or time cards for the months requested, and specifically that driver Edry did not prepare a record of duty status or a time card for February 14, 2009.

Charge 2

In its reply, Respondent denies the charged violation claiming "Respondent did not commit the violation: On or about 03/08/2009, driver Luis Jimenez, did drive a commercial vehicle in furtherance of interstate commerce and was required by ABACO MOVING & STORAGE CORP dba LONESTAR RELOCATION SERVECES to make and did make a record of duty status for 03/08/200, therefore the carrier is not guilty of that violation. Respondent does not support its contention that a record of duty status was prepared by the driver and submitted and maintained by Respondent, nor does Respondent produce a copy of the driver's record of duty status.

Pursuant to 49 C.F.R. § 395.8(a), every motor carrier shall require every driver to prepare a record of duty status as prescribed by the regulations; the driver must submit, and the motor carrier must maintain, the record of duty status as required. The Field Administrator's evidence establishing a *prima facie* for the charged violation includes documentation establishing the interstate transportation of household goods for individual shipper Musnug. The evidence further includes copies of the revised estimate dated

3/8/09 signed by Luis Jimenez for Respondent, a copy of the order for service for shipper Musnug dated 3/8/09 showing Luis Jimenez's signature for the carrier; copy of the Bill of Lading signed by Luis Jimenez for the carrier and a copy of the inventory list for the transportation showing Luis Jimenez's signature. Additionally, during the compliance review Baruch Edry, President, admitted to the investigator that on March 8, 2009 Luis Jimenez drove a commercial motor vehicle to pick up household goods for Respondent's transportation of shipper Musnug's household goods from California to Texas. During the compliance review the investigator requested copies of driver Jimenez's record of duty status for March 8, 2009, Respondent was not able to produce the record of duty status and Mr. Edry told the investigator that Respondent's drivers did not make records of duty status or time cards for the months requested, and specifically that driver Jimenez did not prepare a record of duty status or a time card for March 8, 2009.

7. The Field Administrator's evidence also includes documentation supporting the penalty calculation and consideration of applicable statutory factors.

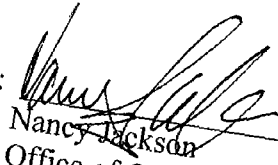
8. The Field Administrator believes there are no material factual dispute warranting a hearing and that this matter may be decided on the written record; the Field Administrator will file an appropriate motion for final order in this matter pursuant to 49 C.F.R. §§ 386.16(b)(3) and 386.36.

WHEREFORE, the Field Administrator gives notice of his objection to Respondent's request for formal hearing.

Respectfully Submitted,
Attorneys for the Claimant

Date: July 6, 2009

By:



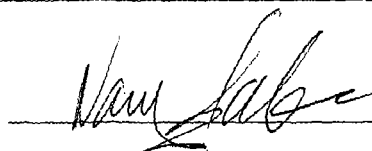
Nancy Jackson

Office of Chief Counsel
Federal Motor Carrier Safety Administration
12600 West Colfax Avenue, Suite B-300
Lakewood, Colorado 80215
303-407-2363
303-407-2339 (Fax)

CERTIFICATE OF SERVICE

This is to certify that on the 6th day of July 2009, the undersigned served, as specified, the designated number of copies of the foregoing document to each of the parties listed below:

US DOT Dockets Docket Operations U.S. Department of Transportation 1200 New Jersey, SE West Building, Ground Floor, Room W12-140 Washington, DC 20590-0001	One Copy FedEx Express FedEx # 7967 4935 4335
Eddie A. Roman Representative for Respondent Alyeska Transportation Management, Inc. 4724 Berkshire Road Marianna, Florida 32446	One Copy U.S. Mail – First Class
Steve Farbman Adjudications Counsel Federal Motor Carrier Safety Administration 1200 New Jersey, SE West Building, Sixth Floor, MC-CCA Washington, DC 20590-0001	One Copy FedEx Express FedEx # 7977 3637 3370
Terry D. Wolf Division Administrator California Division Federal Motor Carrier Safety Administration 1325 J Street, Suite 1540 Sacramento, CA 95814	One Copy Internal Mail
Nancy Jackson Office of Chief Counsel Federal Motor Carrier Safety Administration Western Service Center 12600 West Colfax Avenue, Suite B-300 Lakewood, CO 80215	One Copy Internal Mail
William R. Paden Field Administrator Federal Motor Carrier Safety Administration 12600 West Colfax Avenue, Suite B-300 Lakewood, CO 80215	One Copy Internal Mail



Attachment A

FMCSA-2009-0182

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services
Field Administrator's Notice of Objection to Respondent's Request for Hearing



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration
Western Service Center

Golden Hills Office Centre
12600 W. Colfax Ave. Suite B-300
Lakewood, CO 80215

Phone: (303) 407-2350
Fax: (303) 407-2339

Federal Express

Certified Receipt Number: 7965 3032 2119

April 17, 2009

Baruch Edry, President
Abaco Moving & Storage Corp
dba Lonestar Relocation Services
6917 Owensmouth Ave
Canoga Park, CA 91303

NOTICE OF CLAIM¹ -- Violations of 49 CFR § 391.45(a) /391.11(a); 395.8(a).

CIVIL PENALTY: \$2,000

Case Number: CA-2009-0482-US1164

US DOT Number: 1588288

Dear Mr. Edry:

A compliance review was conducted at Canoga Park, CA on April 1, 2009. The purpose of this review was to determine your compliance with the Federal Motor Carrier Safety Regulations (FMCSR), the Federal Hazardous Materials Regulations (HMR), and the Federal Motor Carrier Commercial Regulations (FMCCR).

As a result of this review, violations were discovered. This letter constitutes a Notice of Claim by the United States Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) against Lonestar Relocation Services for the amount of \$2,000.

Unless settled or otherwise resolved in a manner set forth below, the FMCSA can recover these penalties, with interest and costs, in a civil action brought in a United States District Court. Additional collection efforts may include, but are not limited to: Internal Revenue Service offsets against tax refunds, and the referral to and the use of collection agencies to collect penalties. Also, under 49 Code of Federal Regulations (CFR) §§ 386.83 and 386.84, once a final order has been issued, the FMCSA may prohibit Lonestar Relocation Services from operating in interstate commerce until the civil penalty is paid in full and, if applicable, your FMCSA registration will be suspended.

1) A Notice of Claim is the official charging document used by the Federal Motor Carrier Safety Administration to initiate a civil action for violations of Federal Laws.

SUMMARY OF VIOLATIONS

Your company is charged with:

1. One (1) violation of 49 CFR § 391.45(a) /391.11(a)- Using a driver not medically examined and certified.
2. Two (2) violations of 49 CFR § 395.8(a)- Failing to require driver to make a record of duty status.

A copy of the documentary evidence collected during the investigation is available from this office. Upon request, the FMCSA will forward a copy of this evidence within a reasonable period of time. For additional details see the attached "Statement of Charges."

NOTICE OF ABATEMENT

This letter also constitutes a Notice of Abatement of all violations. In order to ensure that these violations cease, your company must take the following actions:

1. Ensure that each driver is medically examined and certified as qualified to operate a commercial motor vehicle in interstate commerce within the preceding 24 months in accordance with 49 CFR Part 391.
2. Require all drivers to prepare complete and accurate records of duty status for each day and to submit them within 13 days. Maintain all duty status records on file, along with all supporting documents (any record, document, receipt, etc. generated as a result of a driver making a trip) for at least six months in accordance with 49 CFR Part 395.

Failure to Abate Cited Violations

Failure to abate the cited violations could cause penalties to be increased in future enforcement actions.

PENALTY

Penalty Factors for Violations of Safety and Hazardous Materials Regulations

In accordance with 49 USC §§ 521(b)(2)(D) and 5123(c), the FMCSA must, before proposing or claiming a civil penalty, take into consideration the nature, circumstances, extent, and gravity of the violation committed and with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. The civil penalty proposed shall be calculated to induce compliance. These factors will not be considered, however, for violations subject to the Section 222 provision described above.

Penalty Factors for Violations of Commercial Regulations

In the case of violations of the commercial regulations FMCSA also is not required by statute to consider the Section 521 factors. However, before proposing penalties for violations of the

commercial regulations (more specifically the transportation of household goods), 49 U.S.C. § 14901 (c) requires FMCSA to take into consideration the degree of culpability, any prior history of such conduct, the degree of harm to shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the civil penalty proceeding, and such other matters as fairness may require.

Discovered Versus Charged Violations

Violations of either safety or hazardous materials regulations discovered during the course of the compliance review, but not proposed for penalty in this Notice of Claim, may have increased the civil penalty claimed for the violations charged in this Notice of Claim. The violations found in Table 1, as attached to this Notice of Claim, detail the violations discovered during our review/inspection.

Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA)

A pattern of and/or repeated violations of the same or related acute or critical regulations will result in the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during an investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period. Any violations with a checkmark in the "§ 222 Applied" column in the penalty table below are subject to the "Section 222" provision and maximum penalties have been assessed pursuant to statute. See 49 USC § 521 note, 49 USC § 521(b), 49 USC § 5123, 49 USC Chapter 149, and 49 CFR Part 386, Appendix A.

A listing of the statutes governing maximum and minimum penalties for violations of specific regulations is enclosed.

Given the statutorily mandated items listed above, the FMCSA is proposing a civil penalty as follows:

<u>VIOLATION</u>	<u>TYPE OF VIOLATION²</u>	<u>NUMBER OF COUNTS</u>	<u>ASSESSMENT PER COUNT</u>	<u>§222 APPLIED</u>	<u>TOTAL</u>
391.45(a) /391.11(a)	NR	1	\$440.00		\$440.00
395.8(a)	R	2	\$780.00		\$1,560.00

Accordingly, the total amount assessed by the Federal Government as the result of these violations is \$2,000.

HOW TO REPLY TO THE NOTICE OF CLAIM

Under 49 CFR Part 386, "Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings," you have specific rights with respect to this Notice of Claim.

2) CDL=Commercial Driver's License; FR=Financial Responsibility; HM=Hazardous Materials (the total penalty assessed is per citation, not per number of counts); NO=Notice and Orders; NR=Nonrecordkeeping; R=Recordkeeping; COM=Commerical Regulations.

You are advised to carefully read Part 386 and follow the course of action appropriate for you in this case. A copy of Part 386 is attached to this Notice of Claim for your information. You may wish to seek legal counsel for answers to any questions in reference to this Notice of Claim or procedures under Part 386. DO NOT call the FMCSA Service Center or the Chief Counsel's office for advice or assistance in your defense. You may pursue the following courses of action:

(1) PAYMENT OF PENALTY: Within 30 days of service of this Notice of Claim: (a) Pay the assessed penalty in full, or (b) Establish a monthly payment plan by contacting an Enforcement Specialist (NOTE: A payment plan may be available for respondents who demonstrate financial difficulty), or (c) Contact an Enforcement Specialist outlining in writing compelling reasons why the assessed penalty should be reduced and discuss potential settlement. You may be required to submit a current, certified balance sheet or other evidence of assets and liabilities. An Enforcement Specialist can be reached at (303) 407-2350. If you pay the full penalty within thirty (30) days of service of this Notice of Claim, you do not need to file a written Reply to the Notice of Claim.

You may pay the fine electronically through our SAFER website at <http://safer.fmcsa.dot.gov> by selecting "Online Fine Payment."

Alternatively, you may pay by cashier's check, certified check, or money order made payable to the FMCSA and mailed to:

United States Department of Transportation
Federal Motor Carrier Safety Administration
Western Service Center
Golden Hills Office Centre
12600 W. Colfax Ave. Suite B-300
Lakewood, CO 80215

Personal or company checks will not be accepted and will be returned.

Payment of the penalty will constitute admission of the violation(s) set forth in the Notice Claim and these violations shall constitute prior offenses under either 49 USC § 521(b)(2)(D) (for violations of the Federal Motor Carrier Safety Regulations), 49 USC § 14901(c) (for violations of the Federal Motor Carrier Commercial Regulations involving transportation of household goods) or 49 USC § 5123(c) (for violations of the Hazardous Materials Regulations) unless you proceed under the provisions of 49 C.F.R. § 386.18(c). These offenses may lead to higher penalties in future enforcement actions and adverse future SafeStat rankings.

(2) REQUEST FOR ADMINISTRATIVE ADJUDICATION: You may contest the claim and request Administrative adjudication. If you choose this course of action, you must carefully follow the provisions within 49 CFR § 386.14, including filing a written Reply within thirty (30) days after service of this Notice of Claim.

Your Reply must be in writing, and clearly state the grounds for contesting the Notice of Claim, and must state any affirmative defenses you intend to assert. You must separately admit or deny each violation alleged in this Notice of Claim. Any allegations in the Notice of Claim not specifically denied in the Reply will be deemed admitted. A general denial of the claim is insufficient and may result in a default being entered by the Assistant Administrator. Your Reply must include a statement selecting one of the options for administrative adjudication available under 49 CFR § 386.14(d)(1)(iii).

Once you select an adjudication option, you are bound by that selection.

You must serve your reply on all persons listed in the Certificate of Service attached to this Notice of Claim and in accordance with the requirements of 49 CFR § 386.6.

(3) REQUEST FOR BINDING ARBITRATION: If you dispute **only** the amount of the civil penalty and/or the length of time to pay, you can select to have the civil penalty amount adjudicated through FMCSA's binding arbitration program. You should notify the FMCSA of your request in writing when you submit your Reply. The Assistant Administrator will determine if your case is appropriate for binding arbitration. You will be notified in writing of the Assistant Administrator's decision regarding your request. You may choose binding arbitration if the only issues that you dispute are the amount of the civil penalty and/or the length of time to pay. FMCSA's guidance on the use of binding arbitration is available through the following link: <http://www.fmcsa.dot.gov/>. You can also request a copy of the guidelines from the Service Center.

YOU MUST CERTIFY THAT YOUR REPLY HAS BEEN SERVED IN ACCORDANCE WITH THE REQUIREMENTS CONTAINED WITHIN 49 CFR § 386.6.

THE SPECIFIC RIGHTS PROVIDED FOR IN 49 CFR § 386.14 MAY BE WAIVED IF YOU FAIL TO SUBMIT A WRITTEN REPLY WITHIN THIRTY (30) DAYS AFTER THE SERVICE OF THIS NOTICE OF CLAIM.

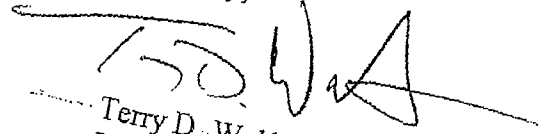
FAILURE TO REPLY TO THE NOTICE OF CLAIM IN THE **EXACT** MANNER SPECIFIED IN 49 CFR § 386.14 MAY BE TREATED AS IF NO REPLY HAS BEEN FILED. UNDER 49 CFR § 386.14(c), A FAILURE TO REPLY MAY CAUSE THE FMCSA TO ISSUE A NOTICE OF DEFAULT AND FINAL AGENCY ORDER THIRTY (30) DAYS AFTER THIS NOTICE OF CLAIM IS SERVED. THE NOTICE OF DEFAULT AND FINAL AGENCY ORDER WILL DECLARE YOU TO BE IN DEFAULT AND DECLARE THE NOTICE OF CLAIM, INCLUDING THE CIVIL PENALTY PROPOSED IN THE NOTICE OF CLAIM, TO BE THE FINAL AGENCY ORDER IN THE PROCEEDINGS. THE FINAL AGENCY ORDER WILL BECOME EFFECTIVE FIVE (5) DAYS AFTER THE NOTICE OF DEFAULT AND FINAL AGENCY ORDER IS SERVED. THE DEFAULT WILL CONSTITUTE AN ADMISSION OF ALL FACTS ALLEGED IN THE NOTICE OF CLAIM AND A WAIVER OF YOUR OPPORTUNITY TO CONTEST THE CLAIM.

A GENERAL DENIAL DOES NOT MEET THE REQUIREMENTS OF 49 CFR § 386.14(d)(1). UNLESS YOUR REPLY COMPLIES WITH THE REQUIREMENTS OF 49 CFR § 386.14(d)(1), THE ASSISTANT ADMINISTRATOR MAY ENTER A DEFAULT AGAINST YOU.

IF YOU DO NOT UNDERSTAND OR ARE CONFUSED ABOUT YOUR RIGHTS AND OBLIGATIONS AS OUTLINED WITHIN THIS NOTICE OF CLAIM, YOU MAY WISH TO SEEK LEGAL ADVICE.

Number: CA-2009-0482-US1164
Copies of the procedural regulations, applicable statutes and the Service List are enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.D. Wolf', with a long horizontal stroke extending to the right.

Terry D. Wolf
Division Administrator
Federal Motor Carrier Safety Administration

Enclosures

APPLICABLE STATUTES

Section 521(b)(2)(A) of 49 USC provides that any person who is determined to have committed an act that is a violation of regulations issued under subchapter III of chapter 311 (49 USC §§ 31131 et seq.) (except sections 31138 and 31139) or 49 USC §§ 31301 and 31306, or section 31502 of 49 USC, shall be liable for a civil penalty in an amount not to exceed \$11,000 for each offense. No civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,750 (49 USC § 521(b)(2)(A) and 68 Fed. Reg. 15381 (March 31, 2003)). Section 5123(a) of 49 USC provides that any person who is determined to have committed an act that is a violation of regulations issued under chapter 51 shall be liable for a civil penalty in an amount not to exceed \$50,000 (71 FR 8487; February 17, 2006) for each offense. If the violation results in death, serious illness, or severe injury to any person, or in substantial destruction of property, the civil penalty may be increased to not more than \$105,000 for each offense (72 FR 55102; September 28, 2007).

Section 521(b)(2)(B)(ii) of 49 USC provides for a maximum civil penalty of \$10,000 for anyone who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in a record about an operation or business fact or transaction, or knowingly makes, prepares or preserves a record in violation of a regulation or order of the Secretary, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation. (49 USC § 521(b)(2)(B)(ii); August 10, 2005).

Section 521(b)(2)(B)(i) of 49 USC provides for a maximum civil penalty of \$1,000 for each recordkeeping offense, (including the failure to make a required report; or making a required report that does not specifically, completely, and truthfully answer a required question; or does not make, prepare, or preserve a record in the form and manner prescribed), and each day of the violation shall constitute a separate offense. The maximum of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000 (49 USC § 521(b)(2)(B)(i); August 10, 2005).

STATEMENT OF CHARGES

Violation 1 --- 49 CFR 391.45(a) /391.11(a) - Using a driver not medically examined and certified.

CHARGE #1:

On or about 02/14/2009, Lonestar Relocation Services required or permitted its driver, Baruch Edry, to drive a commercial motor vehicle in interstate commerce originating from Murrieta, CA destined for Parker, CO. At the time of this transportation, Baruch Edry had not been physically examined and certified.

Violation 2 --- 49 CFR 395.8(a) - Failing to require driver to make a record of duty status.

CHARGE #1:

On or about 02/14/2009, Lonestar Relocation Services, used driver, Baruch Edry, to drive a commercial motor vehicle in interstate commerce originating from Murrieta, CA destined for Parker, CO, without requiring the driver to prepare a record of duty status for that date.

CHARGE #2:

On or about 03/08/2009, Lonestar Relocation Services, used driver, Luis Jimenez, to drive a commercial motor vehicle in interstate commerce originating from Canyon Country, CA destined for Fort Worth, TX, without requiring the driver to prepare a record of duty status for that date.

TABLE 1: VIOLATIONS DISCOVERED DURING REVIEW/INSPECTION

NUMBER	VIOLATION	IDENTIFYING INFORMATION: DRIVER EQUIPMENT COMMODITY	DATE OF VIOLATION
1	49 CFR §391.45(a)	Driver: Baruch Edry	2/14/2009
2	49 CFR 395.8(a)	Driver: Baruch Edry	2/7/2009- 2/21/2009
3	49 CFR 395.8(a)	Driver: Luis Jimenez	3/1/2009- 3/15/2009
4	49 CFR 395.8(a)	Driver: Luis Jimenez	2/14/2009- 2/28/2009
5	49 CFR 395.8(a)	Driver: Luis Jimenez	12/29/2008- 1/12/2009

SERVICE LIST

This is to certify that on April 17, 2009, the undersigned sent, by the method indicated, the designated number of copies of the Notice of Claim to each of the parties listed below.

Each party listed below must receive the designated number of copies of each filing made in this proceeding in the future.

Baruch Edry, President
Abaco Moving & Storage Corp
dba Lonestar Relocation Services
6917 Owensmouth Ave
Canoga Park, CA 91303

Original
Federal Express

Terry D. Wolf, Division Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
1325 J Street, Suite 1540
Sacramento, CA 95814

One Copy
Internal Mail

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

One Copy
Internal Mail

Western Service Center
Golden Hills Office Centre
12600 W. Colfax Ave. Suite B-300
Lakewood, CO 80215

M. DAME

Attachment B

FMCSA-2009-0182

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services
Field Administrator's Notice of Objection to Respondent's Request for Hearing

**US DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
WESTERN SERVICE CENTER**
Agency

V

CASE NO: CA-2009-0482-US1164

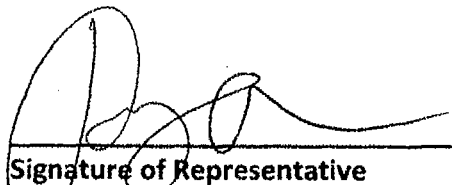
**BARUCH EDRY, PRESIDENT
ABACO MOVING & STORAGE CORP
dba LONESTAR RELOCATION SERVICES**
Respondent

NOTICE OF APPEARANCE

Notice is hereby given of the entry of the undersigned as representative for **BARUCH EDRY, PRESIDENT of ABACO MOVING & STORAGE CORP dba as LONESTAR RELOCATION SERVICES** in the above-entitled action. Pursuant to 49 CFR Part 386.6(a), all further notice and copies of pleadings, papers, and other material relevant to this action should be directed to and served upon:

**EDDIE A ROMAN
Alyeska Transportation Management Services Inc
4425 Market Street
Marianna, Florida 32446
(850) 482-0100
Fax (850) 201-6979**

You are also hereby advised that pursuant to **18 U.S.C. Sec. 2511(2)(d)** and **F.S. Chapter 934.03**. That all incoming and outgoing telephone conversations regarding the above mentioned matters may be monitored and/or recorded.



Signature of Representative

May 8, 2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 08, 2009, the undersigned sent, by the method indicated, the designated number of copies of the NOTICE OF APPEARANCE to each and all parties listed below.

Each party listed below must receive the designated numbers of copies of each filing made in this proceeding in the future.

Department of Transportation
Docket Management Facility
1200 New Jersey Ave SE
Washington DC 20590-0001

One Original
One Copy
First Class Mail

US Department of Transportation
Golden Hills Office Centre
12600 W. Colfax Ave Suite B-300
Lakewood, CO 80215

One Copy
Facsimile
First Class Mail

Terry D. Wolf Division Administrator
US Department of Transportation
Federal Motor Carrier Safety Administration
1325 J Street Suite 1540
Sacramento CA 95814

One Copy
First Class Mail

Baruch Edry, President
Abaco Moving & Storage Corp
Dba Lonestar Relocation Services
6917 Owenmouth Ave
Canoga Park CA 91303

One Copy
First Class Mail

Eddie A Roman, Representative for the Respondent
Alyeska Transportation Management Services Inc
4425 Market Street
Marianna FL 32446

One Copy
Internal Mail


EDDIE A. ROMAN

4425 Market Street
Marianna, Florida 32446
(850) 526-2152
Representative for the Respondent

Attachment C

FMCSA-2009-0182
In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services
Field Administrator's Notice of Objection to Respondent's Request for Hearing

US DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
WESTERN SERVICE CENTER
Agency

V

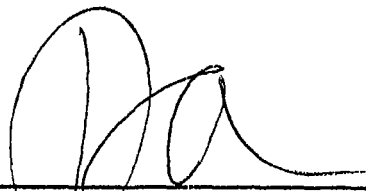
CASE NO: CA-2009-0482-US1164

BARUCH EDRY, PRESIDENT
ABACO MOVING & STORAGE CORP
DBA LONESTAR RELOCATION SERVICES
Respondent

EVIDENTIARY REQUEST

COMES NOW, the respondent **BARUCH EDRY, PRESIDENT ABACO MOVING & STORAGE CORP DBA LONESTAR RELOCATION SERVICES**, by and through undersigned representative, and hereby files an Evidentiary Request we are requesting all Evidence in the above mentioned case including Part C of the compliance review in relation to this case. Please send all documentation to our address:

Alyeska Transportation Management Services Inc
ATTN: Eddie A Roman
4425 Market Street
Marianna FL 32446



EDDIE A. ROMAN
4425 Market Street
Marianna, Florida 32446
(850) 482-0100
Representative for the Respondent

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on May 08, 2009 the undersigned sent, by the method indicated, the designated number of copies of the **EVIDENTIARY REQUEST** to each and all parties listed below.

Each party listed below must receive the designated numbers of copies of each filing made in this proceeding in the future.

Department of Transportation
Docket Management Facility
1200 New Jersey Ave SE
Washington DC 20590-0001

One Original
One Copy
Federal Express

US Department of Transportation
Golden Hills Office Centre
12600 W. Colfax Ave Suite B-300
Lakewood, CO 80215

One Copy
Certified US Mail

Terry D. Wolf Division Administrator
US Department of Transportation
Federal Motor Carrier Safety Administration
1325 J Street Suite 1540
Sacramento CA 95814

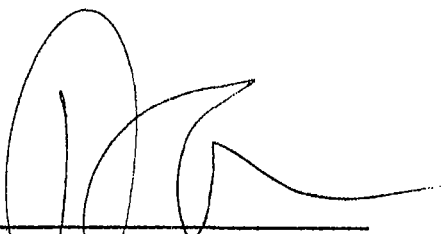
One Copy
Certified US Mail

Baruch Edry, President
ABACO MOVING & STORAGE
Dba LONESTAR RELOCATION SERVICES
6917 Owenmouth Ave
Canoga Park CA 91303

One Copy
First Class Mail

Eddie A Roman, Representative for the Respondent
Alyeska Transportation Management Services Inc
4425 Market Street
Marianna FL 32446

One Copy
Internal Mail


EDDIE A. ROMAN
4425 Market Street
Marianna, Florida 32446
(850) 482-0100
Representative for the Respondent

Attachment D

FMCSA-2009-0182

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services
Field Administrator's Notice of Objection to Respondent's Request for Hearing



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

Western Service Center

Golden Hills Office Centre
12600 W. Colfax Ave., Suite B-300
Lakewood, CO 80215

Phone: (303) 407-2350

Fax: (303) 407-2339

May 18, 2009

Alyeska Transportation Management Services Inc
Attn: Eddie A Roman
P.O. Box 854
Marianna, FL 32447-0854

Re: Evidentiary Request for Abaco Moving & Storage Corp,
dba Lonestar Relocation Services.
Case # CA-2009-0482-US1164
DOT # 1588288

Dear Eddie A Roman:

Your request for copies of documentation was received by the Western Service Center on May 07, 2009. Enclosed please find copies of the evidence collected during the investigation and currently maintained by the Federal Motor Carrier Safety Administration, Western Service Center in Case # CA-2009-0482-US1164 regarding Abaco Moving & Storage Corp, dba Lonestar Relocation Services.

Sincerely,



William R. Paden
Field Administrator

CC: Baruch Edry, President (USPS) without enclosure
Abaco Moving & Storage Corp
dba Lonestar Relocation Services
6917 Owensmouth Ave
Canoga Park, CA 91303

Attachment E

FMCSA-2009-0182

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services
Field Administrator's Notice of Objection to Respondent's Request for Hearing

US DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
WESTERN SERVICE CENTER
Agency

RECEIVED
FMCSA
LAKESWOOD, CO

V

CASE NO: CA-2009-0482-US1164

BARUCH EDRY, PRESIDENT
ABACO MOVING & STORAGE CORP
dba LONESTAR RELOCATION SERVICES
Respondent

REPLY TO THE NOTICE OF CLAIM

COMES NOW, the respondent **BARUCH EDRY, PRESIDENT of ABACO MOVING & STORAGE CORP**
dba LONESTAR RELOCATION SERVICES, by and through undersigned representative, and hereby files his reply to the notice of claim as follows:

1. **DENIED-Violation 1, Charge #1**—49 CFR 391.45(A)/391.11(a)- Using a driver not medically examined and/ or certified

AFFIRMATIVE DEFENSES

After having denied the violation, the Respondent would state the following Affirmative Defenses:

- a. Respondent did not commit the violation: On or about 02/14/2009, driver Baruch Edry, did not drive a commercial vehicle in furtherance of interstate commerce therefore he was not subject to the Federal Motor Carrier Safety Regulation and committed no violation.

2. **DENIED-Violation 2, Charge #1**—49 CFR 395.8(a)- Failing to require driver to make a record of duty status.

AFFIRMATIVE DEFENSES

After having denied the violation, the Respondent would state the following Affirmative Defenses:

- a. Respondent did not commit the violation: On or about 02/14/2009, driver Baruch Edry, did not drive a commercial vehicle in furtherance of interstate

commerce; therefore, he was not subject to the Federal Motor Carrier Safety Regulation and committed no violation.

3. DENIED-Violation 2, Charge #2—49 CFR 395.8(a)- Failing to require driver to make a record of duty status.

AFFIRMATIVE DEFENSES

After having denied the violation, the Respondent would state the following Affirmative Defenses:

Respondent did not commit the violation: On or about 03/08/2009, driver Luis Jimenez did drive a commercial vehicle in furtherance of interstate commerce and was required by **ABACO MOVING & STORAGE CORP dba LONESTAR RELOCATION SERVICES** to make and did make a record of duty status for 03/08/2009, therefore the carrier is not guilty of that violation.

1. As per 49 CFR Part 386.14(b) the respondent is hereby contesting the claim by requesting administrative adjudication pursuant to 49 CFR Part 386.14(d)

a. The respondent is requesting a formal hearing as per 49 CFR Part 386.14(d)(iii)(C)

Alyeska Transportation Management Inc.



EDDIE A. ROMAN

4425 Market Street

Marianna, Florida 32446

(850) 482-0100

Representative for the Respondent

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on May 08, 2009 the undersigned sent, by the method indicated, the designated number of copies of the **REPLY TO THE NOTICE OF CLAIM** to each and all parties listed below.

Each party listed below must receive the designated numbers of copies of each filing made in this proceeding in the future.

Department of Transportation
Docket Management Facility
1200 New Jersey Ave SE
Washington DC 20590-0001

One Copy
Federal Express

US Department of Transportation
Golden Hills Office Centre
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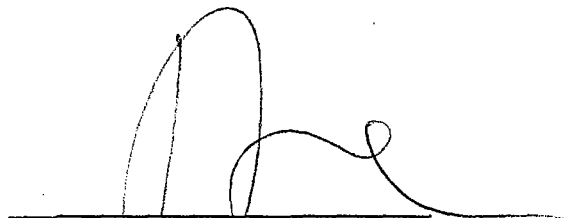
One Copy
First Class Mail

Baruch Edry, President
ABACO MOVING & STORAGE
Dba LONESTAR RELOCATION SERVICES
6917 Owenmouth Ave
Canoga Park CA 91303

One Copy
First Class Mail

Eddie A Roman, Representative for the Respondent
Alyeska Transportation Management Services Inc
4425 Market Street
Marianna FL 32446

One Copy
Internal Mail

A handwritten signature in black ink, appearing to read 'Eddie A. Roman', is written over a horizontal line.

EDDIE A. ROMAN
4425 Market Street
Marianna, Florida 32446
(850) 482-0100
Representative for the Respondent